

1 IN THE UNITED STATES DISTRICT COURT  
2 FOR THE DISTRICT OF HAWAII

4 UNITED STATES OF AMERICA, ) CRIMINAL NO. 12-01133LEK  
5 Plaintiff, )  
6 vs. ) Honolulu, Hawaii  
7 (02) SEAN BARRIERO, ) November 8, 2012  
8 Defendant. ) 2:10 p.m.  
 )  
 ) INITIAL APPEARANCE  
 ) ARRAIGNMENT & PLEA OF GUILTY  
 ) TO THE INDICTMENT AS TO  
 ) DEFENDANT (02) SEAN BARRIERO

## APPEARANCES:

12 For the Government: LESLIE E. OSBORNE, JR., ESQ.  
13 Office of the United States Attorney  
14 PJKK Federal Building  
300 Ala Moana Blvd., Suite 6100  
Honolulu, Hawaii 96850  
15  
16 For the Defendant: SEAN COUTAIN, ESQ.  
17 Office of the Federal Public Defender  
PJKK Federal Building  
300 Ala Moana Boulevard, Suite 7104  
Honolulu, Hawaii 96850  
18  
19  
20 Official Court Cynthia Fazio, RMR, CRR  
21 Transcriber: United States District Court  
P.O. Box 50131  
Honolulu, Hawaii 96850  
22  
23  
24 Proceedings recorded by electronic sound recording, transcript  
25 produced with computer-aided transcription (CAT).

1 THURSDAY, NOVEMBER 8, 2012 2:10 P.M.

2 THE CLERK: Criminal Number 12-1133LEK, United States  
3 of America versus Sean Barriero.

4 This is an initial appearance, arraignment and plea of  
5 guilty to the indictment.

6 May I have your appearances.

7 MR. OSBORNE: Good afternoon, Your Honor. Les Osborne  
8 with Tom Simon of the FBI for the United States.

9 THE COURT: Good afternoon.

10 MR. COUTAIN: Good afternoon, Your Honor. Sean  
11 Coutain representing Sean Barriero, who's present.

12 THE COURT: Good afternoon.

13 THE DEFENDANT: Good afternoon.

14 THE COURT: The Court has received a financial  
15 affidavit submitted and signed by the defendant in this case  
16 and approves the appointment of counsel.

17 MR. COUTAIN: Thank you, Your Honor.

18 THE COURT: Mr. Barriero.

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Is it your intention this afternoon to  
21 plead guilty to Count 2 of the indictment?

22 THE DEFENDANT: Yes, sir.

1 basis for your plea, that the ends of justice would be met to  
2 allow you to make such a plea. To make these determinations  
3 I'm going to ask you some questions. If you do not understand  
4 any of the words of the questions, will you please say so?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: All right. Would you administer the oath?

7 (Defendant sworn to answer truthfully.)

8 THE COURT: Mr. Barriero, what is your full name?

9 THE DEFENDANT: Sean Barriero.

10 THE COURT: And how old are you?

11 THE DEFENDANT: 44.

12 THE COURT: How far did you go in school?

13 THE DEFENDANT: 2 years (indiscernible) degree.

14 THE COURT: Have you taken any medication, alcohol or  
15 drugs of any kind today?

16 THE DEFENDANT: No, sir.

17 THE COURT: Do you feel well and alert?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Do you understand what is going on?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Have you been treated recently for any  
22 mental illness or addiction to narcotic drugs of any kind?

23 THE DEFENDANT: No, sir.

24 THE COURT: Mr. Coutain, to the best of your knowledge  
25 is the defendant fully competent to enter a valid plea today?

1 MR. COUTAIN: He is, Your Honor.

2 THE COURT: The Court finds that the defendant is  
3 fully competent and capable of entering an informed plea.

4 Mr. Barriero, if you choose to enter a guilty plea in  
5 this case, you have the right to enter that plea before a  
6 United States district judge. If you consent, however, you may  
7 enter your guilty plea before me, a magistrate judge. If you  
8 enter a guilty plea here today Judge Kobayashi would impose  
9 sentence at a later hearing. Do you understand that?

10 THE DEFENDANT: Yes, Your Honor.

11 THE COURT: I have before me a document entitled  
12 Consent to Rule 11 plea in a Felony Case Before United States  
13 Magistrate Judge.

14 Mr. Barriero, did you sign this document?

15 THE DEFENDANT: Yes, Your Honor.

16 THE COURT: Is it your wish to consent to enter your  
17 plea before me, a magistrate judge, and to give up or waive  
18 your right to enter that plea before a United States district  
19 judge?

20 THE DEFENDANT: Yes, Your Honor.

21 THE COURT: Mr. Coutain, have you discussed the  
22 consent form with your client?

23 MR. COUTAIN: I have, Your Honor.

24 THE COURT: And are you satisfied that he understands  
25 it?

1 MR. COUTAIN: I am.

2 THE COURT: Have you also signed the document?

3 MR. COUTAIN: Yes, Your Honor.

4 THE COURT: The Court finds that the defendant has  
5 consented to enter his plea before a United States magistrate  
6 judge.

7 Mr. Barriero, have you received a copy of the  
8 indictment pending against you, that is the written charge made  
9 against you in this case?

10 THE DEFENDANT: Yes, Your Honor.

11 THE COURT: Have you discussed the charges and all of  
12 the facts surrounding the charges with Mr. Coutain, your  
13 attorney?

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: Are you fully satisfied with the legal  
16 representation that you've received from Mr. Coutain, your  
17 attorney in this case?

18 THE DEFENDANT: Yes, Your Honor.

19 THE COURT: Mr. Coutain, is the defendant's guilty  
20 plea before the Court today pursuant to your advice and  
21 recommendation?

22 MR. COUTAIN: It is, Your Honor.

23 THE COURT: Mr. Barriero, the Court's been furnished  
24 with a written plea agreement. Is this your signature on the  
25 last page?

1                   THE DEFENDANT: Yes, Your Honor.

2                   THE COURT: Did you have an opportunity to read and  
3                   discuss the plea agreement with your lawyer before you signed  
4                   it?

5                   THE DEFENDANT: Yes, Your Honor.

6                   THE COURT: Do you understand the terms of the plea  
7                   agreement?

8                   THE DEFENDANT: Yes, Your Honor.

9                   THE COURT: Does the plea agreement cover every aspect  
10                  of the agreement that you have with the government in this  
11                  case?

12                  THE DEFENDANT: Yes, Your Honor.

13                  THE COURT: Has anyone made any other or different  
14                  promise or assurance of any kind in an effort to get you to  
15                  plead guilty?

16                  THE DEFENDANT: No, Your Honor.

17                  THE COURT: Has anyone attempted to force you to plead  
18                  guilty or pressure you or threaten you in any way?

19                  THE DEFENDANT: No, Your Honor.

20                  THE COURT: Mr. Osborne, would you summarize the major  
21                  terms of the plea agreement?

22                  MR. OSBORNE: Yes, Your Honor. Pursuant to this  
23                  agreement, when the defendant enters his plea of guilty to the  
24                  interstate transportation of stolen property it will constitute  
25                  a complete and total rest -- resolution of all matters dealing

1 with the ill-fated Stevie Wonder concert and the University of  
2 Hawaii as it pertains to this defendant only.

3 In addition, the defendant will provide cooperation,  
4 and has, to the United States which will be reflected in the  
5 representation of the United States at the -- at the time of  
6 sentencing.

7 The defendant has also relinquished his appellate  
8 rights except in the limited area of a subsequent belief that  
9 he has not received adequate representation or if the sentence  
10 in this matter should exceed the sentencing guidelines  
11 recommendation, he can then appeal that portion of the sentence  
12 that exceeds the statutory recommendation.

13 THE COURT: Mr. Barriero, does that accurately  
14 summarize your agreement with the government?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Do you understand that you are waiving or  
17 giving up all of your rights to appeal except for two  
18 situations; first, if Judge Kobayashi imposes a sentence above  
19 the advisory sentencing guidelines and second, in the event of  
20 ineffective assistance of counsel?

21 THE DEFENDANT: Yes, Your Honor.

22 THE COURT: Do you fully understand the charge covered  
23 by the plea agreement?

24 THE DEFENDANT: Yes, Your Honor.

25 THE COURT: Mr. Osborne, what are the maximum possible

1      penalties for Count 2 of the indictment to which the defendant  
2      would be entering a plea?

3                    MR. OSBORNE: 5 years imprisonment, \$200,000 fine, up  
4      to 3 years of supervised release, \$100 special assessment, and  
5      restitution to the University of Hawaii in the amount of  
6      \$200,000. That would be a joint and several restitution.

7                    THE COURT: Mr. Osborne, did you say 5 years or  
8      10 years?

9                    MR. OSBORNE: Well, the agreement says, I think, you  
10     may be right, though, but just because the agreement says it --  
11     it is ten, Your Honor. I'm sorry. And the agreement says ten.

12                  THE COURT: Mr. Coutain, do you agree with that  
13     summary as to the possible penalties?

14                  MR. COUTAIN: I do, Your Honor.

15                  THE COURT: Mr. Barriero, do you understand these are  
16     the possible penalties you face if you enter a guilty plea to  
17     the charge in this case -- or to Count 2?

18                  THE DEFENDANT: Yes, Your Honor.

19                  THE COURT: During a period of supervised release you  
20     must comply with a set of conditions which will be explained to  
21     you by a probation officer. Those conditions will include  
22     requirements that you obey the law, that you report as required  
23     to the probation officer, and other conditions. If the Court  
24     finds that you violated any of those conditions, you could be  
25     required to serve additional prison time. Do you understand

1 that?

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: Are you presently on probation, parole or  
4 supervised release from any other case?

5 THE DEFENDANT: No, Your Honor.

6 THE COURT: Mr. Osborne, does the United States  
7 contend that any felony offense to which the defendant is today  
8 pleading guilty occurred while he was released on bond or in  
9 relation to some other federal criminal --

10 MR. OSBORNE: No, Your Honor.

11 THE COURT: Mr. Barriero, do you understand that this  
12 case does involve restitution, that Judge Kobayashi will order  
13 you to make restitution to the victim in this case?

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: Does this case involve possible  
16 forfeiture? Mr. Osborne?

17 MR. OSBORNE: Your Honor, an asset has been seized.  
18 It is the only known asset related to this case and it's a  
19 Cadillac automobile.

20 UNIDENTIFIED MALE: Mercedes.

21 MR. OSBORNE: Mercedes automobile of approximately  
22 \$25,000 worth. So, except for that, no, Your Honor.

23 THE COURT: All right. But that asset would be the  
24 subject of a separate proceeding?

25 MR. OSBORNE: Yes, Your Honor.

1                   THE COURT: All right. Mr. Barriero, do you  
2 understand that if you plead guilty a court, or the Court might  
3 require you to forfeit property to the United States, do you  
4 understand that?

5                   THE DEFENDANT: Yes, Your Honor.

6                   THE COURT: If you are convicted of the charge in this  
7 case you may lose valuable civil rights, including the right to  
8 vote, the right to hold public office, the right to serve on a  
9 jury and the right to possess any kind of a firearm. Do you  
10 understand that?

11                  THE DEFENDANT: Yes, Your Honor.

12                  THE COURT: Since you are not a United States citizen,  
13 Mr. Barriero, do you understand that a conviction in this case  
14 might affect your right to remain in this country?

15                  THE DEFENDANT: Yes, Your Honor.

16                  THE COURT: All right. The United States sentencing  
17 commission has issued guidelines for judges to use in  
18 determining the sentence in a criminal case. While judges are  
19 not bound to apply the guidelines, judges must consult the  
20 guidelines and take them into account in determining a  
21 sentence. Have you and your attorney talked about how the  
22 guidelines might apply to your case?

23                  THE DEFENDANT: Yes, Your Honor.

24                  THE COURT: Do you understand that the Court will not  
25 be able to determine the advisory guideline sentence for your

1 case until after the presentence report has been completed and  
2 you and the government have had an opportunity to challenge the  
3 reported facts and the application of the guidelines  
4 recommended by the probation officer and that the sentence  
5 imposed may be different from any estimate your attorney may  
6 have given you?

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: Do you also understand that after your  
9 advisory guideline range has been determined, the Court has the  
10 discretion and authority to depart from the guidelines and to  
11 impose a sentence that is more severe or less severe than the  
12 sentence indicated in the advisory sentencing guideline range?

13 THE DEFENDANT: Yes, Your Honor.

14 THE COURT: Do you understand that Judge Kobayashi  
15 will also determine your sentence based on admissions that you  
16 make at this hearing?

17 THE DEFENDANT: Yes, Your Honor.

18 THE COURT: Do you understand that you do not have to  
19 admit the factual matters in dispute, but if you do admit to  
20 certain facts at this hearing, Judge Kobayashi would rely on  
21 your admissions at the time of sentencing and that your  
22 admissions may increase your sentence.

23 THE DEFENDANT: Yes, Your Honor.

24 THE COURT: If the sentence is more severe than you  
25 expected, you will still be bound by your plea. Even if you do

1 not like the sentence imposed by the Court, you will not be  
2 able to withdraw your plea, the time to make that decision is  
3 now. Do you understand that?

4 THE DEFENDANT: Yes, Your Honor.

5 THE COURT: Parole has been abolished. If you are  
6 sentenced to prison you will not be released on parole. Do you  
7 understand that?

8 THE DEFENDANT: Yes, Your Honor.

9 THE COURT: Mr. Barriero, you have a right to plead  
10 not guilty to any offense charged against you and to persist in  
11 that plea. You will then have a right to trial by jury.  
12 During that trial you would have the right to assistance of  
13 counsel for your defense, the right to see and hear all the  
14 witnesses and to have your attorney cross-examine them, the  
15 right to testify yourself or to decline to testify and remain  
16 silent, and the right to have the Court issue subpoenas for any  
17 witnesses you wish to call in your defense. At trial you would  
18 be presumed to be innocent and the United States would have the  
19 burden of proving that you are guilty beyond a reasonable  
20 doubt. Before you can be convicted, all 12 jurors must be  
21 convinced that the government has met that burden. If you are  
22 found guilty after trial you would have the right to appeal  
23 that conviction to a higher court and if you could not afford  
24 to pay the cost of an appeal, the government would pay those  
25 costs for you. Do you understand that you have all of these

1 rights?

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: If you plead guilty however and if the  
4 Court accepts that plea there will be no trial, you will be  
5 waiving or giving up your right to trial and all of the other  
6 rights I have described. Do you understand that?

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: Also, so long as you plead not guilty you  
9 have the right to remain silent, but if you plead guilty you  
10 are waiving that right, I will ask you questions about what  
11 occurred and you must answer those questions truthfully under  
12 oath even if your answers establish that you committed a crime.  
13 Do you understand that?

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: All right. Mr. Osborne, would you  
16 summarize for the Court and the defendant the essential  
17 elements which the government would be required to prove if  
18 there is a trial on the charge.

19 MR. OSBORNE: That the defendant caused a thing of  
20 value in excess of \$5,000, in this case \$200,000, in interstate  
21 commerce, again, in this case, from Hawaii to Florida, and that  
22 at the time he caused the transportation of that \$200,000, he  
23 knew the \$200,000 had been obtained -- had been stolen from the  
24 University of Hawaii.

25 THE COURT: Mr. Couston, do you disagree in any

1 respect with that summary as to the essential elements?

2 MR. COUTAIN: I do not disagree with that, Your Honor.

3 THE COURT: Mr. Barriero, do you understand that if  
4 there was a trial on the charge, the government would be  
5 required to present evidence sufficient to prove each of these  
6 essential elements beyond a reasonable doubt?

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: The plea agreement includes a written  
9 summary of facts beginning at Paragraph 8 on Page 3 and  
10 continuing on to Page 4. Mr. Barriero, have you read carefully  
11 through that statement of facts?

12 THE DEFENDANT: Yes, Your Honor.

13 THE COURT: Are those facts all true in every respect?

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: Would you tell me in your own words what  
16 you did that constitutes the crime charged against you in this  
17 case.

18 THE DEFENDANT: I've prepared a written statement.

19 THE COURT: Yes.

20 THE DEFENDANT: I own a talent entertainment  
21 consulting agency called Epic Talent. Earlier this year a  
22 talent consultant named Helen Williams contacted me about  
23 organizing a Stevie Wonder concert in Hawaii, in association  
24 with a concert promoter named Robert Peyton.

25 I contacted Marc Hubbard, a music industry veteran of

1 17 years, who claimed to have access to Stevie Wonder through  
2 members of Stevie Wonder's entourage.

3                   Helen Williams and I negotiated a contract with  
4    Mr. Peyton relying on Marc Hubbard's claim of access to Stevie  
5    Wonder. After the contract was signed I instructed Robert  
6    Peyton to have the University of Hawaii wire a two thousand --  
7    two thousand -- \$200,000 deposit from Hawaii to my business  
8    account in Florida and my written instructions stated the  
9    account was an escrow account.

10 When the funds were wired in my account, I failed to  
11 hold -- I failed to hold the funds in escrow. Instead, I  
12 deducted fees which consisted of consulting commissions for  
13 myself, Helen Williams, and forwarded the remaining funds to  
14 Marc Hubbard for delivery to Stevie Wonder's management.

15 THE COURT: Mr. Osborne?

16 MR. OSBORNE: Your Honor, we need an admission from  
17 the defendant that because -- that the trust account was  
18 nonexistent, at least at the account number the defendant  
19 had -- had placed on that document and he knew that when those  
20 monies were transferred to his personal account that they were  
21 stolen.

22 THE COURT: Mr. Coutain, you want a moment to confer  
23 with your client?

24 MR. COUTAIN: Well, Your Honor, my client is prepared  
25 to admit that his wiring instructions did call -- did state

1       that the money would be sent to an escrow account. He's also  
2       prepared to admit that the account was not an escrow account.  
3       In that sense, Your Honor, the funds were sent under false  
4       pretenses, which I believe is sufficient to satisfy the  
5       statute. And I base this conclusion on the actual wording of  
6       the statute which states that whoever transports, transmits or  
7       transfers in interstate or foreign commerce any goods, the  
8       value of \$5,000 or more, knowing the same to have been stolen,  
9       converted or taken by fraud.

10           The fact that the funds were sent under the  
11       understanding that they were being sent to an escrow account,  
12       when the account was not an escrow account, and were not held  
13       in escrow but were in fact -- my client's fees were deducted  
14       from that account I believe satisfies the elements of the  
15       statute and he's prepared to testify to that.

16           THE DEFENDANT: Yes, Your Honor.

17           THE COURT: Mr. Barriero, you've heard what your  
18       attorney just told me.

19           THE DEFENDANT: Yes, Your Honor.

20           THE COURT: Is what he said true?

21           THE DEFENDANT: Yes, Your Honor.

22           THE COURT: Well, Mr. Barriero, what I'm going to do  
23       is I'm going to ask Mr. Osborne to make what's called a proffer  
24       on what he believes he would be able to prove if the case were  
25       to go to trial against you. I want you to listen to what he

1 tells me because when he's finished I'm going to ask you  
2 whether you heard what he said and whether what he said about  
3 you and your conduct is true.

4 THE DEFENDANT: Yes, Your Honor.

5 THE COURT: All right. Mr. Osborne, what's the  
6 government's proffer?

7 MR. OSBORNE: The government's proffer is that various  
8 people associated with this defendant have made false  
9 representations to the University of Hawaii concerning the  
10 Stevie Wonder concert. That this defendant had passed on  
11 personally false representations made by others, and we do not  
12 allege that he knew those allegations were false, but the  
13 evidence will show that as part of this scheme the defendant  
14 prepared and caused to be delivered to the University of Hawaii  
15 a document which set out his account number, he described his  
16 personal account number, he described that as a trust account,  
17 and the University of Hawaii may -- sent by wire transmission  
18 to that alleged trust account in his name when in fact it was a  
19 personal account. When he did that, he knew it would cause  
20 monies to be transported by trick and device or stolen money.  
21 And we need an admission from him that when he presented this  
22 document for the purpose of having the money transferred, he  
23 knew in fact that the transfer of that money constituted the  
24 transmission of stolen or money taken by trick and device.

25 THE COURT: Mr. Barriero, you've heard what

1       Mr. Osborne just told me?

2               THE DEFENDANT: Yes, Your Honor.

3               THE COURT: Is what he said about you and your conduct  
4       true?

5               THE DEFENDANT: Yes, Your Honor, just want to make a  
6       clarification. It was a business account, not a personal  
7       account, but it was -- everything else was accurate.

8               THE COURT: You satisfied, Mr. Osborne?

9               MR. OSBORNE: Yes, Your Honor, we're satisfied.

10              THE COURT: All right. Mr. Barriero, if you plead  
11       guilty the Court will order that a presentence report be  
12       prepared. The sentencing judge will decide whether or not to  
13       accept the plea agreement based in part upon the contents of  
14       the presentence report. If the Court decides to reject the  
15       plea agreement, you will then have an opportunity to withdraw  
16       your guilty plea and change it to not guilty. Do you  
17       understand that?

18              THE DEFENDANT: Yes, Your Honor.

19              THE COURT: All right. Then, Mr. Barriero, how do you  
20       plead to the charge contained in Count 2 of the indictment  
21       filed on November 7th, 2012, guilty or not guilty?

22              MR. OSBORNE: Your Honor, I believe it's Count 1.

23              MR. COUTAIN: It's Count 2.

24              THE COURT: It's Count 2.

25              MR. COUTAIN: It's Count 2.

1                   MR. OSBORNE: Let me see the indictment. I've handed  
2 it up.

3                   You're right. I'm sorry, Your Honor. It is Count 2.

4                   THE COURT: Mr. Barriero, let me put the question to  
5 you again.

6                   THE DEFENDANT: Okay.

7                   THE COURT: How do you plead then to the charge  
8 contained in Count 2 of the indictment filed on November 7,  
9 2012, guilty or not guilty?

10                  THE DEFENDANT: Guilty.

11                  THE COURT: Mr. Coutain, are you aware of any reason  
12 why the Court should not accept the defendant's guilty plea?

13                  MR. COUTAIN: No, Your Honor.

14                  THE COURT: The Court finds that the defendant is  
15 fully competent and capable of entering an informed plea, that  
16 his plea of guilty is knowing and voluntary and supported by an  
17 independent basis in fact containing each of the essential  
18 elements of the offense. I'm therefore signing the Report and  
19 Recommendation Concerning Plea of Guilty. Subject to the  
20 Court's consideration of the plea agreement pursuant to Rule  
21 11(c)(3) of the Federal Rules of Criminal Procedure, I  
22 recommend that the defendant be adjudged guilty and have  
23 sentence imposed. Objections to this report and recommendation  
24 are waived unless filed and served within 14 days.

25                  Mr. Barriero, I'm ordering our probation department to

1 prepare a presentence report in this case. This is a document  
2 about you and your case which will assist the judge in  
3 determining your sentence. The probation officer will  
4 interview you. If you wish, your attorney may be present at  
5 that interview. You and your attorney will have an opportunity  
6 to read the report before sentencing and to file written  
7 objections to its contents. You and your attorney will also  
8 have the opportunity to address the judge at the hearing before  
9 the judge imposes sentence.

10 Date and time?

11 THE CLERK: Sentencing to Count 2 of the indictment,  
12 February 21, 2013, 2 p.m., Judge Kobayashi.

13 THE COURT: Mr. Coutain, I have a report from Pretrial  
14 Services. Have you and your client had a chance to go over it?

15 MR. COUTAIN: We have, Your Honor.

16 THE COURT: Any comment?

17 MR. COUTAIN: No comments, Your Honor.

18 THE COURT: Mr. Osborne?

19 MR. OSBORNE: Your Honor -- excuse me -- in regard to  
20 the admissions by the defendant, the trick and device, or the  
21 theft, was based on material of misrepresentations. And I  
22 would just add that of course the government will show the  
23 materiality of a trust account versus a business account, that  
24 would be additional evidence which I did not mention.

25 THE COURT: But with regard -- yes, but with regards

1 to the release status of the defendant?

2 MR. OSBORNE: We have no objection. We concur with  
3 the pretrial report.

4 THE COURT: The Court taking judicial notice of the  
5 information and documents on file in this criminal number and  
6 the report prepared by Pretrial Services, based on the  
7 information presented the Court does find that there are  
8 conditions which exist which would reasonably assure the  
9 appearance of the defendant and the safety of any other person  
10 in the community and therefore the defendant Sean Barriero may  
11 be released on the following terms and conditions:

12 First, he post an unsecured bond in the amount of  
13 \$50,000.

14 Next, he must comply with Pretrial Services  
15 supervision and abide by all conditions of release as directed  
16 by Pretrial Services.

17 He must maintain or actively seek employment as  
18 directed by Pretrial Services.

19 He must surrender any passports and all travel  
20 documents to the Clerk's Office. He is not to apply for or to  
21 obtain a passport. Unless otherwise specified by the Court,  
22 the Clerk's Office is directed to return any posted passports  
23 to the defendant upon disposition of the case.

24 He must surrender the passports and all travel  
25 documents no later than November 22nd, 2012.

1                   The defendant's travel is restricted to the State of  
2 Florida and the State of Hawaii for court purposes. Any travel  
3 outside the State of Florida is permitted for employment  
4 purposes but only with the prior approval of Pretrial Services.

5                   He is not to change his residence without the advance  
6 approval of Pretrial Services.

7                   He is to have no contact, direct, indirect or through  
8 third-parties, with any co-defendants, co-conspirators or  
9 witnesses in this and any related case. The United States  
10 Attorney's Office will provide Pretrial Services with the  
11 initial and updated lists of names of persons with whom the  
12 defendant's contact is prohibited.

13                  The defendant is prohibited from possessing or having  
14 access to any firearm, ammunition, destructive device or other  
15 dangerous weapon.

16                  He must immediately surrender all firearms,  
17 ammunition, destructive devices and other dangerous weapons to  
18 an agent approved by Pretrial Services.

19                  He must contribute toward the cost of the services  
20 required by the bond to the extent that he is financially able  
21 to do so as determined by Pretrial Services.

22                  The defendant must provide Pretrial Services with any  
23 and all requested financial information regarding his financial  
24 status, including but not limited to employment and all sources  
25 of income, bank accounts, assets and liabilities and

1 investments. He is required to sign and execute an  
2 authorization to release financial information as requested by  
3 Pretrial Services.

4 Pretrial Services is authorized to run credit reports  
5 on a random and as-needed basis during the course of the  
6 defendant's supervision to ensure the defendant's compliance  
7 with pretrial release conditions. He is required to sign and  
8 execute any necessary release forms including but not limited  
9 an authorization to release financial information as requested  
10 by Pretrial Services.

11 The defendant is further prohibited from conducting  
12 any monetary transactions without court approval in amounts  
13 over the amount of \$10,000.

14 Finally, the defendant shall not commit any offense in  
15 violation of federal, state or local law while on release. He  
16 must appear at all proceedings as required and surrender for  
17 service of any sentence imposed as directed.

18 And he must cooperate with the collection of a DNA  
19 sample if it is authorized by -- according to United States  
20 Code Section 14135a.

21 Mr. Barriero, do you understand you must follow and  
22 comply with each and every one of the conditions I've stated  
23 this afternoon?

24 THE DEFENDANT: Yes, Your Honor.

25 THE COURT: Violation of any one condition may result

1       in the termination of your release and may expose you to  
2       sanctions in a separate criminal charge. Do you understand  
3       that?

4                   THE DEFENDANT: Yes, Your Honor.

5                   THE COURT: Then I'll direct the defendant to the  
6       marshal's office and to the Clerk's Office for processing of  
7       documents necessary to allow for his release in accordance with  
8       the terms and conditions stated this afternoon.

9                   Anything else, Mr. Osborne?

10                  MR. OSBORNE: No, Your Honor. Thank you.

11                  THE COURT: Mr. Coutain?

12                  MR. COUTAIN: No, Your Honor.

13                  THE COURT: We'll be in recess.

14                  (The proceedings concluded at 2:38 p.m., November 8, 2012.)

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TRANScriber's CERTIFICATE

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3                   I, CYNTHIA FAZIO, Official Court Transcriber, United  
4 States District Court, District of Hawaii, Honolulu, Hawaii, do  
5 hereby certify that pursuant to 28 U.S.C. §753 the foregoing is  
6 a true, complete and correct transcript from the electronic  
7 sound recording of the proceedings had in connection with the  
8 above-entitled matter and that the transcript page format is in  
9 conformance with the regulations of the Judicial Conference of  
10 the United States.

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12                   DATED at Honolulu, Hawaii, October 9, 2014.

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*/s/ Cynthia Fazio*  
15                   CYNTHIA FAZIO, RMR, CRR

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